

Calendar No. 498

105TH CONGRESS }
2d Session }

SENATE

{ REPORT
105-267 }

FASTENER QUALITY ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

H.R. 3824



JULY 27, 1998.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

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JULY 27, 1998.—Ordered to be printed

Mr. MCCAIN, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany H.R. 3824]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (H.R. 3824) “A Bill amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft”, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

PURPOSE OF THE BILL

The purpose of the bill, as reported, is to amend the Fastener Quality Act (FQA), 15 U.S.C. 5401 et seq., to exempt from coverage certain fasteners approved by the Federal Aviation Administration (FAA), and to delay the effective date of regulations implementing the FQA until June 1, 1999, or 120 days after the Secretary of Commerce (Secretary) has issued a report on changes needed to the law, whichever is later.

BACKGROUND AND NEEDS

Every year billions of special high-strength bolts, screws, and other fasteners are sold in the United States which carry grade identification markings. The markings indicate that the fasteners conform with specifications set by consensus standards organizations. These grade-marked fasteners are used in critical applications like highway bridges and aircraft where failure of a fastener could jeopardize public safety.

The FQA was enacted in 1990 and applies to all threaded, metallic, through-hardened fasteners of one-quarter inch diameter or greater that directly or indirectly reference a consensus standard. Under the FQA, such fasteners must be tested or documented by

a laboratory that is certified by the National Institute of Standards and Technology (NIST).

Despite the passage of time since its enactment, regulations to carry out the provisions of the FQA have never been implemented. NIST's most recent rule was published April 14, 1998 and includes revisions to earlier proposed regulations which reflect legislative changes to the FQA adopted in 1996 as part of the National Technology Transfer and Advancement Act (Public Law 104-113). The April 14 rule currently is scheduled to take effect on October 26, 1998.

Since the passage of the FQA in 1990, fastener quality control procedures have evolved substantially from the lot-sampling procedure that forms the basis for the current law. In the April 14 rule, NIST attempted to accommodate the new "process control" quality approaches in the FQA regulations. However, fastener manufacturers and major industrial users report that the NIST rule is overly restrictive and does not fully accommodate advances in quality control procedures.

In addition, proprietary fasteners of aviation manufacturers currently are subject to the quality assurance programs of the FAA. Under these programs, aviation manufacturers already are required to demonstrate to the FAA that they have a quality control system which ensures that their products, including fasteners, meet design specifications. Consequently, the application of FQA requirements to such fasteners could create duplicative and potentially confusing regulations that would not assist federal efforts to ensure the safety of the flying public. Furthermore, neither the FAA nor the National Transportation Safety Board is aware of any fatal aviation accidents caused by a substandard proprietary fastener.

LEGISLATIVE HISTORY

H.R. 3824 was referred to the Committee on Commerce, Science, and Transportation on June 24, 1998. There have been no Senate hearings on the legislation. However, bill provisions are similar to language included in S. 1325, the Technology Administration Authorization Act. S. 1325 was approved by the Committee at its April 30, 1998 executive session and was reported on May 22, 1998.

On July 9, 1998, the Committee met in executive session and, by a voice vote, ordered H.R. 3824 to be reported with amendments. The package of amendments, offered by Senator Ford for Senators Hollings and Rockefeller, broadens and clarifies the scope of the study called for in the bill. It requires that the study include a comparison of the FQA to other applicable regulatory programs and an identification of any duplication.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 14, 1998.

Hon. JOHN MCCAIN,
*Chairman, Committee on Commerce, Science and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3824, an act amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Hadley.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 3824—An act amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft

H.R. 3824 would amend existing law regarding the regulation of fasteners. The act would direct the National Institute of Standards and Technology (NIST) to submit a report to the Congress by February 1, 1999, on trends in manufacturing fasteners, on other programs that regulate fasteners, and on legislative changes that may be needed to reflect current conditions. Implementation of NIST's regulations on fasteners would be delayed until June 1, 1999, or 120 days after submission of the report, whichever is later. Under this legislation, fasteners made for aircraft would be exempt from those regulations if the suitability and quality of the fasteners have been approved by the Federal Aviation Administration.

Based on information provided by the agency, CBO estimates that NIST would spend about \$200,000 in 1999 to complete the study required by H.R. 3824, assuming appropriation of the necessary funds. Because H.R. 3824 would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

H.R. 3824 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On May 21, 1998, CBO transmitted an estimate of H.R. 3824 as ordered reported by the House Committee on Science on May 13, 1998. The House version would not require NIST to report on other programs that regulate fasteners; therefore, CBO estimated that NIST would spend only about \$100,000 to complete the study.

The CBO staff contact for this estimate is Mark Hadley. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

H.R. 3824, as reported, would exempt from coverage certain FAA-approved fasteners and delay implementation of FQA regulations. Manufacturers and users of grade-marked fasteners will be affected by the FQA requirements when they are implemented. However, the reported bill will not subject any individuals or businesses affected by those requirements to any additional regulation.

ECONOMIC IMPACT

Providing an exemption for FAA-approved fasteners will allow aviation manufacturers to continue their existing manufacturing processes without modification or cost impact. In addition, the delay in the implementation of NIST's FQA regulations allows the Secretary of Commerce to review the current law's relevance to today's manufacturing processes for fasteners of all kinds. Therefore, businesses will not be required to incur costs associated with FQA compliance until the later of June 1, 1999 or 120 days after the Secretary makes the report available to the Congress.

PRIVACY

This legislation will not have an adverse impact on the privacy of individuals.

PAPERWORK

H.R. 3824, as reported, will not increase the paperwork requirement for private individuals or businesses. The legislation requires the Secretary of Commerce to submit to Congress a report on changes in the fastener manufacturing processes, an analysis of the duplication that exists between FQA and other regulatory programs, and recommendations for changes to the FQA.

SECTION-BY-SECTION ANALYSIS

Section 1. Amendment

This section would amend Section 15 of the FQA (15 U.S. Code 5414) by adding at the end a new subsection (b). The new subsection (b) would exempt from FQA requirements fasteners specifically manufactured or altered for use on aircraft if the quality and suitability of those fasteners, for that specified use, is approved by the FAA. The exemption would not apply to fasteners represented by their manufacturer as having been manufactured in conformance with standards or specifications established by a consensus standards organization or a federal agency other than the FAA.

Section 2. Delayed implementation of regulations

This section would delay the implementation of NIST's April 14, 1998 FQA rule until June 1, 1999, or 120 days after the Secretary transmits a report to Congress on recommended changes to the FQA, whichever is later.

The Secretary's report would be required to include: (1) a discussion of changes in the fastener manufacturing processes that have occurred since the original enactment of FQA in 1990; (2) a comparison of the FQA to other regulatory programs that regulate the

various categories of fasteners, and an analysis of any duplication that exists among programs; and (3) recommendations for changes that should be made to the FQA as a result of improvements in the fastener manufacturing process and the comparison of the FQA to other regulatory programs.

Concerns have been raised regarding the application of the FQA to certain fastener categories. The bill's exemption for aviation fasteners regulated by the FAA responds to one such concern. Similar situations may exist in other industries. For example, some automobile manufacturers have pointed out that the National Highway Traffic Safety Administration's responsibility for the safety of automobiles could include fasteners. Thus, it is essential that the Secretary work cooperatively with other federal agencies and departments in completing the report required under this section.

To ensure that the report is thorough and complete, and that it includes necessary information and appropriate recommendations for Congressional action, the Secretary also should seek and consider input from a variety of industry and manufacturing sources, both domestic and foreign. The Committee expects the Secretary to develop a process for receiving and evaluating input from the public and affected businesses, and that those comments will be given full consideration.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 15. COMMERCE AND TRADE ¹

CHAPTER 80. FASTENERS

§ 5414. Applicability

(a) *TRANSITIONAL RULE.*—The requirements of this Act shall be applicable only to fasteners fabricated 180 days or more after the Secretary issues final regulations required under sections 5, 6, and 8, except that the Secretary may extend such time period if the Secretary determines that an insufficient number of laboratories have been accredited to perform the volume of inspection and testing required. Upon any such extension, and every 6 months thereafter during such extension, the Secretary shall submit a report to the Congress explaining the reasons for such extension and the steps being taken to ensure the accreditation of a sufficient number of laboratories.

(b) *AIRCRAFT EXEMPTION.*—

(1) *IN GENERAL.*—*The requirements of this Act shall not apply to fasteners specifically manufactured or altered for use on an aircraft if the quality and suitability of those fasteners for that use has been approved by the Federal Aviation Administration, except as provided in paragraph (2).*

¹Section 15 of the Fastener Quality Act is reflected in the United States Code as section 5414 of title 15.

(2) *EXCEPTION.*—Paragraph (1) shall not apply to fasteners represented by the fastener manufacturer as having been manufactured in conformance with standards or specifications established by a consensus standards organization or a Federal agency other than the Federal Aviation Administration.

